IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

W.A.No.1789 of 2007

AGAINST THE JUDGEMENT IN W.P.(C).NO.18457/2007-V DATED 04/07/2007

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APPELLANT: PETITIONER:-

COMTRUST CHARITABLE TRUST, 7/1136,
SOUTH MANANCHIRA ROAD, NAGARAM VILLAGE, NAGARAM
DESOM OF KOZHIKODE CORPORATION, KOZHIKODE-1,
REP. BY ITS CHAIRMAN & MANAGING TRUSTEE,
K.K.S. NAMBIAR, AGED 81 YEARS,S/O.KOMAN NAMBIAR.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA
SRI.K.I.SAGEER

RESPONDENTS: RESPONDENTS:-

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1. STATE OF KERALA,
   REP. BY ITS CHIEF SECRETARY TO GOVERNMENT,
   GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, CIVIL STATION, KOZHIKODE.

3. THE DEPUTY COLLECTOR,
   DISTRICT LEVEL TASK FORCE, COLLECTORATE,KOZHIKODE.

BY SENIOR GOVERNMENT PLEADER SMT.MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

H.L.Dattu,C.J. & K.T.Sankaran,J.

W.A.No.1789 of 2007

Dated, this the 20th day of July 2007

JUDGMENT

K.T.Sankaran,J.

The appellant is the petitioner. The challenge in the writ petition is against Exhibit P3, which is a notice issued to the petitioner under the Kerala Land Conservancy Act directing the petitioner to vacate an extent of 6 cents of land which, according to the respondents, is a puramboke land.

2. The petitioner claims title to the property under two documents, viz., Exhibits P1 and P2. Exhibit P1 is a lease deed executed by Common Wealth Trust (India) Limited in favour of Comtrust Charitable Trust, whereas Exhibit P2 is a sale deed executed by the former in favour of the latter. The contention of the petitioner is that the extent of six cents of land in question forms part of the land belonging to the petitioner and it is not a puramboke land. The petitioner contended that before issuing Exhibit P3, no notice was issued to the petitioner and the objections of the petitioner were not heard.

3. In these circumstances, the learned Single Judge disposed of the writ petition holding that Exhibit P3 shall be treated as a notice to the petitioner and the petitioner shall be given an opportunity of being heard in the matter and also to adduce evidence.

4. The contention of the appellant/petitioner is that appellant is not in possession of any Government land. It is also contended that a proper survey would reveal that no Government land is included within the compound belonging to the appellant. The learned counsel appearing for the appellant

submits that the appellant may be given an opportunity to file a detailed and comprehensive objection pointing out all relevant details and also to produce necessary documents in support of its case before the 3rd respondent.

5. The request made by the learned counsel for the appellant is reasonable and if it is granted, no prejudice will be caused to the respondents.

6. In view of the above, the order passed by the learned Single Judge need not be interfered with by us in this appeal. However, an opportunity is granted to the appellant to produce documents and to file an additional detailed and comprehensive objection before the 3rd respondent. The appellant would be free to put forward all contentions which are legally available to it before the 3rd respondent and the 3rd respondent shall afford a reasonable opportunity of being heard in the matter to the appellant.

The Writ Appeal is disposed of as indicated above.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-